



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** Inland Service Corporation  
**File:** B-249590  
**Date:** December 7, 1992

Theodore M. Bailey, Esq., for the protester.  
Howard L. Hardegree, Esq., General Services Administration,  
for the agency.  
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Office of the General Counsel, GAO, participated in the  
preparation of the decision.

### DIGEST

Protester's failure to submit its low bid on the invitation for bid's (IFB) revised bidding schedule added by an IFB amendment may be waived as a minor informality, where the protester acknowledged all amendments, the bid on the initial IFB bidding schedule obligated the protester to meet all the amended IFB's material requirements and the revised bid schedule added no new work.

### DECISION

Inland Service Corporation protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. GS-07P-92-HTC-0047/7ADB, issued by the General Services Administration (GSA), for various operation, maintenance, and repair services for building equipment and systems at different locations in the Albuquerque, New Mexico, area.

We sustain the protest.

On June 10, 1992, GSA issued the IFB to obtain a contractor to provide all management, supervision, labor, supplies, materials, equipment, and tools required to perform building equipment and systems operation, maintenance, and repair services at a variety of designated locations. The IFB listed the basic contract services to be:

- (1) Operation, Maintenance, and Repair of Building Equipment and Systems;
- (2) Water Treatment;
- (3) Operational Tours;

- (4) Operational Watches;
- (5) Asbestos Control Procedures;
- (6) Architectural and Structural Maintenance; and
- (7) Central Station Monitoring.

The IFB was for a firm, fixed-price contract for a term of 33 months from November 1, 1992, to July 31, 1995, with provision for up to a 6-month extension at the contract prices.

The original IFB bidding schedule required bidders to bid a per month price for all the basic contract services as one contract line item. The schedule also requested hourly prices for a variety of "other contract services," *i.e.*, services not encompassed in the basic contract services, such as overtime. For each of the "other contract services" line items, an estimated number of hours was provided for evaluation purposes. The low bidder was calculated by the adding the total amount for the basic contract services, as determined by multiplying the monthly unit price by 39 months, to the total extended prices for the "other contract services" line items.

GSA issued amendment No. 01, which, 'among other things, substituted a revised bidding schedule. This revised schedule kept the "basic contract services" line item and added a line item requesting a separate monthly price for the central station monitoring services.' The amended IFB provided that the bidder's total price would be determined by adding the extended price for basic contract services, the extended price for central station monitoring services, and the extended prices for the "other contract services."

On July 24, GSA received 10 bids in response to the IFB, including a bid from Inland. Although Inland acknowledged all amendments, it submitted its bid on the original bidding schedule, which did not contain the separate line item for the central station monitoring services. Inland's total evaluated bid (without the separate price for the central station monitoring services line item) was \$804,746.55. All other bidders submitted their bids on the revised schedule. Since Inland did not bid a separate price for the central station monitoring services, GSA rejected Inland's bid as nonresponsive on July 27. The next lowest bid was submitted by Ogden Allied Eastern States at \$989,825.64. No award has been made.

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<sup>1</sup>The IFB statement of work already included these services.

Inland essentially contends that its failure to submit the revised bidding schedule should be waived as a minor informality, since its bid on the original IFB schedule included central station monitoring services. In response, GSA argues that Inland's mistaken use of the original schedule cannot be waived because the separate pricing for the control station monitoring services is a material IFB requirement.

A bid is responsive as submitted when it offers to perform without exception the exact thing called for in the solicitation and acceptance of the bid will bind the contractor to perform in accordance with all the IFB's material terms and conditions. Gold Seal Corp., B-245824, Jan. 28, 1992, 92-1 CPD ¶ 118. In certain circumstances, bids have been properly rejected where they were submitted on the original IFB schedule instead of an amended bid schedule, even where the bids have expressly acknowledged amendments containing the revised schedules. See Technical Support Servs., Inc., B-227328.2, Oct. 2, 1987, 87-2 CPD ¶ 322, and cases cited therein. In those cases, the amended bid schedule specifically listed additional material work that was not included in the original IFB and bid schedule, and the bids were nonresponsive because it was unclear whether the bidders bound themselves to perform the additional work. Id.

Here, the amended bid schedule did not add new work or additional legal obligations, and it is clear that Inland was legally bound to perform the work under the contract, including the central station monitoring requirement, in accordance with all the material terms and conditions of the amended IFB. Central station monitoring was expressly included in the original IFB as one of the basic contract services; it was a specifically listed item of work in the contract scope of work. The initial bidding schedule encompassed all basic contract services, including central station monitoring. Therefore, there is no ambiguity as to Inland's legal obligation to perform the central station monitoring services under its monthly price for the basic contract services, since it is apparent that this was included in Inland's basic monthly unit price.<sup>2</sup>

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<sup>2</sup>Although the revised bid schedule did not expressly advise bidders to otherwise exclude the cost of central station monitoring from the line item covering basic contract services, it is clear from the evaluation scheme that bidders were expected to do so. Otherwise, the bid prices would twice count these services. If Inland's bid had included the revised bid schedule without completing the central station monitoring services line item, it would have been

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In arguing that Inland's omission was material, GSA states that amendment No. 01 was issued "to distinctly call to the attention of the bidders that the ongoing (existing) contract did not include central monitoring services and to make clear that it was an element under the [IFB]." This does not establish the materiality of the separate central station monitoring price, since the initial IFB clearly advised bidders that these services were included as part of the basic contract services.

GSA also states that the revised schedule was issued for the purpose of obtaining a bid price for central station monitoring separate from the basic contract services in order to determine price reasonableness. GSA has not, however, explained the significance of such a determination. Inland's low bid encompasses all basic contract services including central basic monitoring. Where a low bid containing several line items obligates the bidder to perform all contract work at a monthly price, that bid cannot be rejected as nonresponsive even if the agency finds a line item (priced on a monthly basis and required to be performed throughout the contract term) to be unreasonably low or unbalanced. See Seaward Corp.--Recon., B-237107.3, Oct. 24, 1990, 90-2 CPD ¶ 324; The Ryan Co., B-238932, June 13, 1990, 90-1 CPD ¶ 557. Moreover, the agency has not suggested that Inland's total price is so low that its responsibility must be questioned. Thus, the purpose advanced for breaking out this item for separate pricing does not show that Inland's omission of a price for the breakout item was material, since the omission did not affect the bidder's legal obligations to perform in accordance with the IFB. See Adak Comms. Sys., Inc., 67 Comp. Gen. 208 (1988), 88-1 CPD ¶ 74.

In sum, we find that Inland's bid on the initial schedule, together with its express acknowledgment of the amendments, obligated Inland to perform these services in accordance with the IFB as amended. See Gold Seal Corp., supra; Adak Comms. Sys., Inc., supra; Rocky Ridge Contractors, Inc., B-224862, Dec. 19, 1986, 86-2 CPD ¶ 691. Therefore, Inland's bid is responsive and its failure to use the revised bidding schedule should be waived as a minor informality.

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<sup>2</sup>(...continued)

nonresponsive because this would have created doubt as to whether Inland was obligated to perform these services. Cooper Sportswear Mfg. Co., Inc., B-238998.5, Sept. 18, 1990, 90-2 CPD ¶ 225.

We recommend that GSA make award to Inland if otherwise appropriate. Inland is also entitled to recover its costs of filing and pursuing the protest, including reasonable attorneys' fees. 4 C.F.R. § 21.6(d)(1) (1992).

The protest is sustained.

*William L. Howler*  
for Comptroller General  
of the United States